

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

HARFORD COUNTY

Case No. 5544
Date Filed 5/22/06
Hearing Date _____
Receipt _____
Fee \$450.00

Shaded Areas for Office Use Only

Type of Application

- ☐ Administrative Decision/Interpretation
☐ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☐ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code _____

CASE 5544 MAP 57 TYPE Variance

ELECTION DISTRICT 01 LOCATION 4400 Antrim Court, Aberdeen 21001

BY Cheneé D. Butler

Appealed because a variance pursuant to Section 267-41D(5) and Section 267-41D(6) of the Harford County Code to permit a pool within the Natural Resource District in the R3 District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Cheneé D. Butler Phone Number 410-272-4227
Address 4400 Antrim Court Aberdeen MD 21001
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 4400 Antrim Court
Aberdeen MD 21001

Subdivision Wexford Lot Number 9

Acreage/Lot Size _____ Election District 01 Zoning R3

Tax Map No. 57 Grid No. 4F Parcel 97 Water/Sewer: Private ☐ Public ☒

List ALL structures on property and current use: _____

Estimated time required to present case: _____

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? _____

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☐

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

Request

see attached

Justification

see attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

Harford County Board of Appeals
Request/Justification

We are interested in getting an in ground swimming pool in our backyard. Our yard is unique in that we have several easements along the sides of the house. The pool we are trying to get will not encroach into any of the easements and it meets all of the county codes. The problem is that the pool will encroach into the Natural Resource District (NRD) that is on the plan, but was disturbed by the builder when our property was built and when the county put in a Storm Water Management (SWM) pond. Moreover, it serves no major purpose anymore. We are on an end lot next to the SWM and there is no house behind or to the right of us. Additionally, other people in our development have been given permission to build pools even on the side of the house and with smaller lots.

Chene D. Butler
4400 Antrim Court
Aberdeen, MD 21001

ARCHITECTURAL MODIFICATION FORM

Homeowners Association of Wexford, Inc.
C/O Architectural Committee
PO Box 98
Aberdeen, MD 21001

Request for structural/landscaping addition or modification:

Name: Chene D. Butler
Lot#: 9

Date: 5/5/06

Street Address: 4400 Anthony Court
C/S/Z: Aberdeen, MD 21001
Home Phone: 410-272-4227
Work Phone: 410-404-1699
Email: cdwarte@hotmail.com

*You have
this already*

Description/Diagram of Modification Requested: Please include a description and diagram (sketch or picture, if appropriate) of addition or modification. If more space is needed, attach a separate sheet. Attach your home location survey that you received with your settlement papers showing the location of your modifications.

Desired Start Date: July 2006

Approximate End Date: September 2006

pool

I (We) acknowledge and agree that I (We) will be solely liable for any claims, including without limitation, claims for property damage or personal injury, which result from the requested addition or modification. I (We) hereby indemnify the Homeowners Association from and against any and all such claims. I (We) understand and acknowledge that I (We) am (are) responsible for complying with all applicable county codes and ordinances, and for obtaining all necessary permits and inspections for the requested addition or modification and further that I (We) am (are) responsible for all maintenance, repair and upkeep of said addition or modification.

Chene D. Butler
(Signature of Owner)

(Signature of Co-Owner)

Action By The Architectural Committee

5/10/06
(Date Received)

() Approved as Requested

(X) Approved subject to the following conditions/modifications:

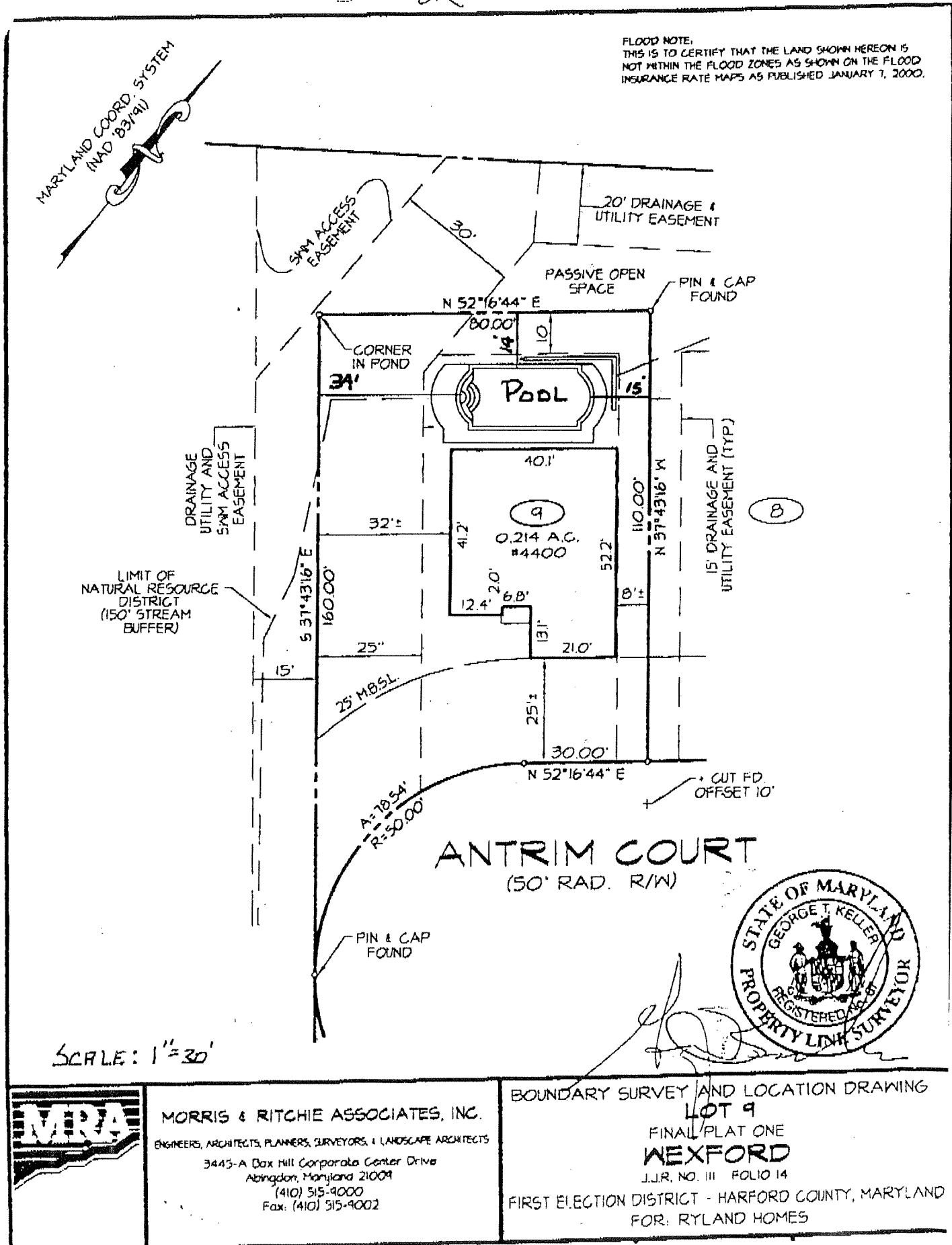
pool needs to be approved by Harford County
copy of permit needs to be submitted to Wexford Architectural Committee

() Disapproved for the following reasons: before any construction can begin

Notification to Homeowner on: 5/15/06
(Date)

PCA
(Authorized Signature)

SUTLER



DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

July 10, 2006

STAFF REPORT

BOARD OF APPEALS CASE NO. 5544

APPLICANT/OWNER: Chenée' D. Butler
4400 Antrim Court, Aberdeen, Maryland 21001

REPRESENTATIVE: Applicant

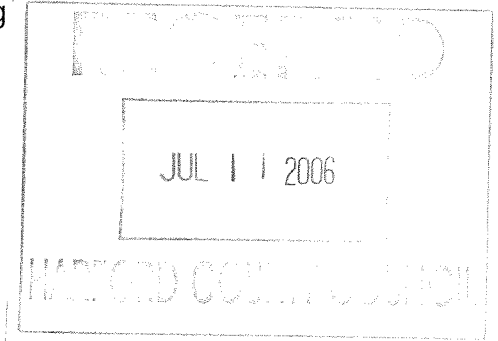
LOCATION: 4400 Antrim Court/Wexford subdivision
Tax Map: 57 / Grid: 4F / Parcel: 97 / Lot: 9
Election District: First (1)

ACREAGE: 0.214 of an acre

ZONING: R3/Urban Residential District.

DATE FILED: May 17, 2006

HEARING DATE: July 19, 2006



APPLICANT'S REQUEST and JUSTIFICATION:

See ATTACHMENT 1.

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-41D(5) and Section 267-41D(6) of the Harford County Code to permit a pool within the Natural Resource District in the R3/Urban Residential District.

Section 267-41D(5) of the Harford County Code reads:

Preserving Harford's past; promoting Harford's future

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Board of Appeals Case Number 5544

Chenee' Butler

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- (5) *Conservation requirements. The following conservation measures are required within this district:*
- (a) *All development shall minimize soil disturbance during development and shall reduce soil erosion and sedimentation. When developing site plans, consideration shall be given to maintaining the existing drainage ways within the Natural Resources District.*
 - (b) *Clearing or removal of natural ground cover and vegetation in preparation for development shall be minimized. Site development shall be clustered or designed in such a manner to preserve large contiguous tracts of woodland. Clearing of woodlands shall not reduce the area coverage of trees below seventy percent (70%). Along streams, a buffer with minimum width of fifty (50) feet, plus four (4) feet for each one percent increase in slope, measured from the water's edge, shall be provided. Trees within the buffer may be harvested to remove diseased, insect-damaged or fire-damaged trees to salvage the same or reduce potential stream blockage due to fallen timber. Essential access roads may be permitted to traverse the buffer.*
 - (c) *Sensitive environmental areas, including significant/special natural features, significant wildlife habitats, saturated soils, highly erodible soils and designated scenic area shall not be disturbed during any development.*
 - (d) *Any land in excess of twenty-five percent slope for an area of forty thousand (40,000) square feet or more shall not be cleared of natural ground cover or vegetation in preparation for development, except for necessary road and utilities. Not more than thirty percent (30%) of any land in excess of fifteen percent (15%) slope and less than twenty-five percent (25%) slope shall be cleared of natural ground cover or vegetation in preparation for development.*
 - (e) *Nontidal wetlands shall not be disturbed by development. A buffer of at least seventy-five (75%) feet shall be maintained in areas adjacent to wetlands.*

Section 267-41(6) of the Harford County Code reads:

Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is located south of I-95, east of Riverside Parkway (MD 543), and to the south side of Philadelphia Road (MD Route 7). The lot is situated at the end of Antrim Court in the development of Wexford. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

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The subject property is located within the Development Envelope. The predominant land use designations in the area of the subject property are: Low, Medium and High Intensities. There is also an area of Industrial/Employment. The Natural Features Map reflects Stream Systems. The 2004 Land Use map designates the subject property as Medium Intensity which is defined as:

Medium Intensity - Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, variety stores and other commercial uses are examples of some of the more intensive uses associated with this designation.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 4 and 5).

Land Use – Existing:

The existing land uses in this area of the County are consistent with the 2004 Master Plan. Residential land uses include single-family dwellings, apartments, townhouses and condominiums. Commercial uses include individual retail, shopping centers and restaurants. Other land uses include parks. The topography of the area ranges from rolling to steep especially near the stream valleys. Enclosed with the report is a copy of the topography map and the aerial photograph (Attachments 6 and 7).

The subject property is located on the north side of Antrim Court at the end of the cul de sac. The lot is bordered on the left side by the storm water management facility. The lot is improved by a stone and frame 2 story dwelling with an attached 2 car garage, a double wide concrete driveway and a frame shed located in the right rear corner of the lot. The Applicant's dwelling is very similar in design and size to other dwellings on the street. The property is nicely landscaped and all of the improvements appear to be well maintained. The lot has easements across the left, rear and right sides of the property. This is true for several of the lots fronting on Antrim Court (Attachment 8). Also enclosed with the report are copies of site photographs along with an enlargement of the aerial photograph (Attachments 9 and 10).

The Department was unable to locate any permits for the shed. The shed appears to be located in the easement.

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning in the area ranges from R1, to R4/Urban Residential Districts. Commercial zoning ranges from B1/Neighborhood Business to B3/General Business and CI/Commercial/Industrial zoning. There is also GI/General Industrial zoning in the area. The Applicant's property is zoned R3/Urban Residential District as shown on the enclosed zoning map (Attachment 11).

SUMMARY:

The Applicant's are requesting a variance pursuant to Section 267-41D(5) and Section 267-41D(6) of the Harford County Code to permit a pool within the Natural Resource District in the R3/Urban Residential District.

Section 267-41D(5):

(5) *Conservation requirements. The following conservation measures are required within this district:*

(a) *All development shall minimize soil disturbance during development and shall reduce soil erosion and sedimentation. When developing site plans, consideration shall be given to maintaining the existing drainage ways within the Natural Resources District.*

The rear of the Applicant's lot contains Natural Resource District (NRD). There are also drainage and utility easements along the left, rear and right property line. These easements along with the required setbacks have reduced the usable area of the lot. The area within the NRD should be maintained in natural vegetation.

(b) *Clearing or removal of natural ground cover and vegetation in preparation for development shall be minimized. Site development shall be clustered or designed in such a manner to preserve large contiguous tracts of woodland. Clearing of woodlands shall not reduce the area coverage of trees below seventy percent (70%). Along streams, a buffer with minimum width of fifty (50) feet, plus four (4) feet for each one percent increase in slope, measured from the water's edge, shall be provided. Trees within the buffer may be harvested to remove diseased, insect-damaged or fire-damaged trees to salvage the same or reduce potential stream blockage due to fallen timber. Essential access roads may be permitted to traverse the buffer.*

It is obvious from the site inspection and from reviewing the aerial photographs that the clearing and grading was done by the Developer and not by the Applicant.

(c) *Sensitive environmental areas, including significant/special natural features, significant wildlife habitats, saturated soils, highly erodible soils and designated scenic area shall not be disturbed during any development.*

Disturbance of the area was done by the developer to grade the lots, establish the walking trail to the rear and to create the stormwater facility adjacent to the subject property.

(d) *Any land in excess of twenty-five percent slope for an area of forty thousand (40,000) square feet or more shall not be cleared of natural ground cover or vegetation in*

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Cheneé Butler

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preparation for development, except for necessary road and utilities. Not more than thirty percent (30%) of any land in excess of fifteen percent (15%) slope and less than twenty-five percent (25%) slope shall be cleared of natural ground cover or vegetation in preparation for development.

There are no steep slopes on the subject property.

(e) *Nontidal wetlands shall not be disturbed by development. A buffer of at least seventy-five (75%) feet shall be maintained in areas adjacent to wetlands.*

The NRD on the lot is part of the 150 foot stream buffer.

Section 267-41(6):

Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources.

The Department finds that the lot is unique. However, the requested variance does not appear to be the minimum relief necessary for a reasonable use of the property.

The Applicants are proposing to construct a pool approximately 40 feet in length by almost 20 feet in width. As planned, the edge of the pool is only 5 feet from the foundation wall of the dwelling and the apron only 1 foot from the foundation wall. There are two sets of sliding glass doors from the rear of the dwelling, one from the lower level that could have access to the apron. The second set is from the second level. If the pool is approved and constructed, it does not appear that a deck could be constructed. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the Applicant. The Code requires that requested variances be the minimum relief necessary. In this case the proposed pool is too large for this lot. Several of the lots in this subdivision could not accommodate a pool of this size.

The Applicants have submitted with their application a form from the Homeowners Association extending their approval for the proposed pool (Attachment 12).

RECOMMENDATION and or SUGGESTED CONDITIONS:

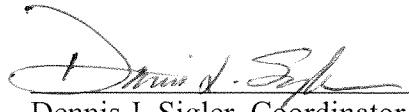
The Department of Planning and Zoning recommends that the requested variance for the proposed pool be denied.

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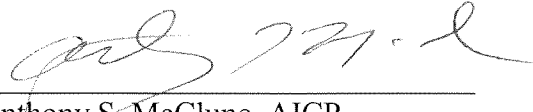
Chenee' Butler

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Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review

DJS/ASM/jf



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning